



Nick Jordan, Secretary
Dean Reynoldson, Director

Sam Brownback, Governor

State of Kansas
Department of Revenue
Division of Alcoholic Beverage Control
Notice of Hearing on Proposed Administrative Regulations

A public hearing will be conducted by the Department of Revenue at 9:00 a.m. on Thursday, January 10, 2013, in Room 230, Secretary's Conference Room on the second floor of the Docking State Office Building, 915 SW Harrison, Topeka to consider amendments, revocations and adoption of alcoholic beverage control regulations. Copies of these proposed regulations may be found at www.ksrevenue.org.

This 60-day notice of the public hearing shall constitute a public comment period for the purpose of receiving written comments from the public on the proposed regulations. All interested parties may submit written public comments on the proposed regulations prior to the hearing to Kathleen Smith, Tax Specialist, Office of Policy and Research, Room 230, Docking State Office Building, 915 SW Harrison, Topeka, Kansas 66612 or through e-mail at kathleen.smith@kdor.ks.gov.

All interested parties will be given a reasonable opportunity to present their views, either orally or in writing or both, concerning the adoption of the proposed regulations. In order to give all parties an opportunity to present their views, it may be necessary to request that each participant limit any oral presentation to five minutes.

Any individual with a disability may request accommodation in order to participate in the public hearing and may request the proposed regulations and economic impact statements in an accessible format. Requests for accommodation to participate in the hearing should be made at least five working days in advance of the hearing by contacting Kathleen Smith at (785) 296-3081 or TTY (785) 296-6461. Disabled parking is located in State Parking Lot No. 2, south of the Docking Building facing Harrison Street. The east entrance to the Docking Building is accessible.

These regulations are proposed for adoption on a permanent basis. A summary of the proposed regulations and the economic impact follows:

Kansas Department of Revenue
Division of Alcoholic Beverage Control
Article 13.-Retail Liquor Dealer

Amendments to K.A.R. 14-13-1. This amendment implements section 3 of Substitute for HB 2689, allowing retail licensees to serve free samples of alcoholic liquor on the licensed premises and at adjacent premises monitored and regulated by the division of ABC. Specifically, the amendment adds a definition of "adjacent premises", "mixer", and "tasting event".

Other definitions that were not used in the act, were mere restatements of the statutory definitions, or inconsistent with those definitions were removed. Definitions of “manager” and “crime opposed to decency and morality” were added.

Economic Impact:

The Department of Revenue does not anticipate any impact on the department, other government agencies, private businesses, or individuals.

Amendments to K.A.R. 14-13-2. This amendment removes many licensing requirements that are mere restatements of the statute and adds a section allowing the Director to reject an application for a variety of reasons listed in the regulations. Other amendments were technical or language revisions requested by the Department of Administration or the Attorney General’s office.

Economic Impact:

The Department of Revenue does not anticipate any impact on the department, other government agencies, private businesses, or individuals.

Revocation of K.A.R. 14-13-3. This regulation establishes procedures for a “short method” of license renewal.

Economic Impact:

The Department of Revenue does not anticipate any impact on the department, other government agencies, private businesses, or individuals.

Amendments to K.A.R. 14-13-4. This amendment clarifies requirements for licensees located in cities and counties which require a local occupation or license tax, and requires such licensees to post proof of payment to be posted in a conspicuous place on the licensed premises.

Economic Impact:

The Department of Revenue does not anticipate any impact on the department, other government agencies, private businesses, or individuals.

Amendments to K.A.R. 14-13-5. This amendment removes the requirement that retailers notify ABC within five days of hiring an employee and replaces it with a requirement that the retailer maintain a roster of employees, containing the employee’s name, date of birth and gender. Subsection (c), concerning persons a retailer may not hire, was removed as it is merely restatement of a statute.

Economic Impact:

The Department of Revenue does not anticipate any impact on the department, other government agencies, private businesses, or individuals.

Amendments to K.A.R. 14-13-6. This amendment provides a procedure to allow a retailer to change the location of its business upon written permission of the Director. The amendment includes what information the licensee is required to submit for the Director’s review and provides reasons why the Director may deny such a request.

Economic Impact:

The Department of Revenue does not anticipate any impact on the department, other government agencies, private businesses, or individuals.

Amendments to K.A.R. 14-13-7. Nothing material is changing, other than the request for a duplicate license must now be made upon forms prescribed by the Director. This is mainly a technical amendment.

Economic Impact:

The Department of Revenue does not anticipate any impact on the department, other government agencies, private businesses, or individuals.

Amendments to K.A.R. 14-13-8. This amendment requires a retailer wishing to transfer its inventory to another licensee to submit certain information to the Director for approval. The amendment further provides reasons why the Director may deny the retailer's request and also provides a method of dealing with liquor which has been abandoned by the retailer.

Economic Impact:

The Department of Revenue does not anticipate any impact on the department, other government agencies, private businesses, or individuals.

Amendments to K.A.R. 14-13-9. This amendment adds public venues to the types of licensed premises a retailer may sell and deliver alcoholic liquor to. The section requiring retailers to use delivery vehicles which have been registered with the ABC to deliver alcoholic liquor to licensed premises was removed.

Economic Impact:

The Department of Revenue does not anticipate any impact on the department, other government agencies, private businesses, or individuals.

Amendments to K.A.R. 14-13-10. This amendment allows a retailer to maintain records of purchases and sales of alcoholic liquor in electronic format. The requirement that proof of the alcoholic liquor purchased be included on the invoice or sales slip was removed, as it serves no real purpose.

The amendment also adds the new public venue to the list of licensees to which a retailer selling alcoholic liquor must issue a numbered sales slip or invoice containing the required information.

Economic Impact:

The Department of Revenue does not anticipate any impact on the department, other government agencies, private businesses, or individuals.

Revocation of K.A.R. 14-13-11. This regulation provides restrictions and requirements for signs on and about the retailer's premises.

Economic Impact:

The Department of Revenue does not anticipate any impact on the department, other government agencies, private businesses, or individuals.

Amendments to K.A.R. 14-13-13. This amendment implements section 3 of Substitute for HB 2689, allowing retail licensees to serve free samples of alcoholic liquor on the licensed premises and at adjacent premises monitored and regulated by the division of ABC. Specifically, the regulation was amended to remove the prohibitions on open containers and consumption of liquor on the licensed premises. The prohibition on a retailer accepting credit cards for payment of alcoholic liquor was removed as it contradicts current state law.

Additional amendments were made to clean up outdated language.

Economic Impact:

The Department of Revenue does not anticipate any impact on the department or other government agencies. Licensees may see some increase in business through samples.

Amendments to K.A.R. 14-13-15. This amendment provides a procedure for retailers wishing to change their doing business as (“d/b/a”) names and reasons why the Director may refuse a request to change a d/b/a name.

Economic Impact:

The Department of Revenue does not anticipate any impact on the department, other government agencies, private businesses, or individuals.

Adoption of 14-13-16. Tasting events; requirements; prohibitions. This new regulation implements the provisions of Section 3 of Substitute for HB 2689, allowing retail licensees to serve free samples of alcoholic liquor on the licensed premises and at adjacent premises monitored and regulated by the division of ABC. The regulation establishes procedures for conduct of the event, record keeping, and storage of liquor.

Economic Impact:

The Department of Revenue does not anticipate any impact on the department or other government agencies. Licensees may see an increase in sales of alcoholic liquor through the sampling program.

Adoption of 14-13-17. Tasting events; supplier participation; requirements; prohibitions. This new regulation implements the provisions of Section 3 of Substitute for HB 2689, allowing suppliers to participate in tasting events conducted by a retail liquor store licensee on the licensed premises and at adjacent premises monitored and regulated by the division of ABC. The regulation establishes procedures for a supplier’s conduct of the event, record keeping, and storage of liquor.

Economic Impact:

The Department of Revenue does not anticipate any impact on the department or other government agencies. Licensees may see an increase in sales of alcoholic liquor through the sampling program.

Adoption of 14-13-18. Change of ownership; notice to director. This new regulation requires a retailer to notify ABC at least 20 days prior to a transfer of ownership in a business entity holding a license. The notice must include all information necessary to determine the continued eligibility of the licensee.

Economic Impact:

The Department of Revenue does not anticipate any impact on the department or other government agencies. Licensees may see an increase in sales of alcoholic liquor through the sampling program.

A copy of this regulation and the economic impact statement may be obtained from the Kansas Department of Revenue, Office of Policy and Research, Room 230, Docking State Office Building, 915 SW Harrison, Topeka, Kansas 66612-1588 or via our website: www.ksrevenue.org.

14-13-1. Definitions. As used in this article ~~of these regulations~~, unless the context clearly requires otherwise, the following ~~words and phrases~~ terms shall have the meanings ascribed to them specified in this regulation:

(a) ~~“Alcoholic liquor” means alcohol, spirits, wine, beer and every liquid or solid, patented or not, containing alcohol, spirits, wine or beer and capable of being consumed as a beverage by a human being. Alcoholic liquor shall not include cereal malt beverage.~~ “Adjacent premises” means an enclosed permanent structure that is contiguous to the licensed premises and may be located in front of, beside, behind, below, or above the licensed premises. Adjacent premises shall be under the direct or indirect control of the retailer. This term shall not include empty lots, parking lots, temporary structures, or enclosed structures not contiguous to the licensed premises.

(b) ~~“Beer” means a beverage containing more than 3.2% alcohol by weight, obtained by alcoholic fermentation of an infusion or concoction of barley or other grain, malt and hops in water. The term beer includes beer, ale, stout, lager beer, porter and similar beverages having such an alcoholic content.~~

(e) ~~“Beneficial interest” means any ownership interest by a person or that person’s spouse in a business, corporation, partnership, trust, association, or other form of business organization which exceeds 5% of the outstanding shares of that corporation or a similar holding in any other form of business organization.~~

~~(d)~~ (c) “Bulk wine” means wine ~~which~~ that is sold to a club either by a retailer or a distributor in barrels, casks, or bulk containers ~~which~~ that individually exceed 20 liters.

~~(e)~~ “Caterer” means a person licensed pursuant to Article 22 of these regulations.

~~(f)~~ “Cereal malt beverage” means any fermented but undistilled liquor brewed or made from malt or from a mixture of malt or malt substitute, but does not include any liquor which is more than 3.2% alcohol by weight.

~~(g)~~ (d) “Church” means a building that is owned or leased by a religious organization and is used exclusively as a place for religious worship and other activities ordinarily conducted by a religious organization.

~~(h)~~ “Club” means the premises or person licensed pursuant to Articles 19 or 20 of these regulations.

~~(i)~~ “Director” means the director of the division of alcoholic beverage control of the department of revenue.

~~(j)~~ “Distributor” means those persons licensed by the director, pursuant to K.S.A. 1991 Supp. 41-306, 41-306a, and 41-307, to sell or offer for sale alcoholic

~~liquor, spirits, wine, beer or cereal malt beverage to any person authorized by law to sell
alcoholic liquor, spirits, wine, beer or cereal malt beverage at retail.~~

~~(k) “Drinking establishment” means the premises or person which has been licensed
pursuant to Article 21 of these regulations.~~

~~(4)~~ (e) “Crime opposed to decency and morality” means a crime involving any of the
following:

(1) Prostitution;

(2) procuring any person;

(3) solicitation of a child under 18 years of age for any immoral act involving sex;

(4) possession or sale of narcotics, marijuana, amphetamines, or barbiturates;

(5) rape;

(6) incest;

(7) gambling;

(8) adultery; or

(9) bigamy.

(f) “Licensed premises” means those areas described in an application for a retailer’s license ~~which~~ that are under the control of the applicant and ~~which~~ are intended as the area in which alcoholic liquor is to be sold for consumption off the licensed premises or stored for later sale.

~~(m) “Morals charge” means a charge made in an indictment, information or a complaint alleging crimes which involve:~~

- ~~(1) Prostitution;~~
- ~~(2) procuring any person;~~
- ~~(3) solicitation of a child under 18 years of age for any immoral act involving sex;~~
- ~~(4) possession or sale of narcotics, marijuana, amphetamines or barbiturates;~~
- ~~(5) rape;~~
- ~~(6) incest;~~
- ~~(7) gambling;~~
- ~~(8) adultery; or~~
- ~~(9) bigamy.~~

~~(n) "Person" means any natural person, corporation, association, trust or partnership.~~

~~(o) "Retailer" means a person licensed by the director to sell at retail, or offer for sale at retail, alcoholic liquor for consumption off the licensed premises of the retailer.~~

~~(p) "Spirits" means any beverage that contains alcohol obtained by distillation, mixed with water or other substances in solution. The term "spirits" includes brandy, rum, whiskey, gin or other spirituous liquors, and liquors when rectified, blended or otherwise mixed with alcohol or other substances.~~

~~(q) "Wine" means any alcoholic beverage obtained by the normal alcoholic fermentation of the juice of sound, ripe grapes, fruits, berries or other agricultural products, including those beverages containing added alcohol or spirits or containing sugar added for the purpose of correcting natural deficiencies.~~

(g) "Manager" means a person with the status, duties, and authority to have control over the licensee's business operation, finances, or disbursement of business funds including any of the following:

(1) The authority to make decisions concerning the day-to-day operations of the business;

(2) the authority to hire or fire employees;

(3) the authority to sign business checks;

(4) the authority to direct payment of business funds; or

(5) supervision of those employees responsible for any of these duties.

(h) "Mixer" means any liquid capable of being consumed by a human being that may be combined with alcoholic liquor for consumption.

(i) "Tasting event" means any time during which a retailer or supplier is serving free samples of alcoholic liquor on the retailer's licensed premises or at adjacent premises monitored and regulated by the director. (Authorized by K.S.A. ~~1991 Supp.~~ 41-210; implementing K.S.A. ~~1991~~ 2011 Supp. 41-102, as amended by ~~1992 HB 2719~~ L. 2012, ch. 144, sec. 4; effective May 1, 1988; amended Aug. 6, 1990; amended, T-14-11-9-92, Nov. 9, 1992; amended Dec. 21, 1992; amended, T-14-6-28-12, July 1, 2012; amended, T-_____, _____; amended P-_____.)

14-13-2. Application for retail liquor license, ~~contents~~; requirements, conditions, and restrictions on issuance of license. (a) A retailer's license shall be issued by the director to each applicant who is determined by the director to have satisfied the requirements of the liquor control act ~~and article 13 of these regulations~~.

(b) Each application for a retailer's license shall be ~~made upon~~ submitted on forms ~~prepared prescribed~~ by the director ~~and shall contain all information the director deems necessary~~. Each application for a retailer's license shall be accompanied by the following documents ~~and all other documents the director deems necessary~~ and include all of the following:

(1) A copy of any partnership agreement, operating agreement of a limited liability company, declaration of trust, or other documents setting forth the aims and purposes of the trust, if applicable;

(2) a copy of a written lease, ~~with at least nine months remaining in its term from the date the license is issued~~, or proof of ownership of the premises ~~sought~~ to be licensed;

(3) a certified statement from the applicant that the licensed premises are located in one of the following areas:

(A) ~~in~~ An area where the zoning regulations of ~~either~~ the city, township, or county allow the operation of a retail liquor store; or

(B) ~~in~~ an area where no zoning regulations have been adopted;

(4) the proper license and registration ~~fee in the form of a certified check, cashier's check, money order or cash. Personal or business checks shall not be accepted~~ fees;

~~(5) the licensee fee in the form of a certified check, cashier's check, money order or cash. Personal or business checks shall not be accepted a bond, pursuant to K.S.A. 41-317 and amendments thereto;~~

~~(6) a bond in the sum of \$2,000, with corporate sureties, conditioned on the retailer's compliance with the provisions of these regulations, the liquor control act and payment of all taxes, fines and forfeitures assessed by the director against the retailer;~~

~~(7) a copy of the notice given to the city clerk, if the licensed premises are located within an incorporated city, or the clerk of the township board of trustees in which the licensed premises are located, if the licensed premises are located outside an incorporated city; and~~

~~(8) a ~~description~~ diagram of the licensed premises, showing the area or areas in which alcoholic liquor will be stored and sold; and. The description shall state the location of the licensed premises, the approximate dimensions of the licensed premises and enough detail to identify the licensed premises.~~

~~(A)~~ Subject to the prior approval of the director, the licensed premises may include either of the following:

~~(i)~~ (A) Those areas outside the main sales area ~~which~~ that are within 100 ~~meters~~ yards of the main sales area and located upon property ~~which~~ that is subject to the applicant's legal control; or

~~(ii)~~ (B) a detached storage area, located within 100 yards of the main sales area and used exclusively for storage of alcoholic liquor by the retailer. ~~The storage area shall be located within 100 meters of the licensed premises.~~

~~(B) The licensed premises shall not include:~~

~~(i) An inside entrance or opening which connects directly with any other place of business or with a residence; or~~

~~(ii) any premises which are located within 200 feet of any public or parochial school, college or church, unless such premises were licensed at the time the school, college or church was established.~~

(7) all other information necessary to complete the application process.

~~(c) An individual, trust or partnership shall not be issued a retailer's license if any individual, grantor, beneficiary, trustee, partner or spouse of any individual, grantor, beneficiary, trustee or partner:~~

~~(1) Has been convicted of a felony under the laws of this state, any other state or the United States;~~

~~(2) has been convicted of being the keeper or is keeping a house of prostitution or has forfeited bond to appear in court to answer charges of being a keeper of a house of prostitution;~~

~~(3) has been convicted of being a proprietor of a gambling house, pandering or any other crime opposed to decency and morality or has forfeited bond to appear in court to answer charges for any of those crimes;~~

~~(4) is not at least 21 years of age. This shall not apply to any beneficiary or to the spouse of any individual, grantor, beneficiary, trustee or partner;~~

~~(5) (A) Appoints or supervises any law enforcement officer, other than as a member of the governing body of a city or county;~~

~~(B) is a law enforcement official; or~~

~~(C) is an employee of the director;~~

~~(6) intends to act as the agent of another in exercising control of the license;~~

~~(7) at the time of application for renewal of the license issued by the director would be ineligible for the license upon a first application. This shall not~~

~~apply if the spouse of any individual, grantor, beneficiary, trustee or partner is ineligible upon the application for renewal;~~

~~(8) has had any license or permit issued by the director revoked, except that a license may be issued to a person whose license was revoked for the conviction of a misdemeanor at any time after the lapse of 10 years following the date of the revocation;~~

~~(9) has a beneficial interest in:~~

~~(A) A license allowing the manufacture, preparation or wholesale of alcoholic liquors;~~

~~(B) any club, drinking establishment or caterer licensed by the director;~~

~~(C) another retail liquor store licensed by the director; or~~

~~(D) a license allowing the manufacture, preparation or wholesale of cereal malt beverages.~~

~~(10) has been a citizen of the United States for less than 10 years. This shall not apply to the spouse of any individual, grantor, beneficiary, trustee or partner or to an applicant who is the spouse of a deceased retail licensee if the applicant is otherwise qualified to hold a retail license and is a United States~~

~~citizen or becomes a United States citizen within one year after the deceased licensee's death;~~

~~(11) has been a resident of the State of Kansas for less than four years immediately preceding the date of application. This shall not apply to the spouse of any individual, grantor, beneficiary, trustee or partner or in determining the eligibility of an applicant upon the 10th or a subsequent consecutive renewal of a license if the applicant has designated a Kansas resident agent as provided for in K.S.A. 41-311, and amendments thereto; or~~

~~(12) is employed in the capacity of an officer or a manager, or in connection with the mixing, serving, selling and dispensing of alcoholic liquor for a club, drinking establishment or caterer which is licensed by the director. This shall not apply to a retail licensee who is also any officer, director or board member of a class A club if the retail licensee does not sell alcoholic liquor to the class A club.~~

~~(d) An application for a license may be rejected by the director if the applicant or any individual, grantor, beneficiary, trustee or partner is currently delinquent in payment of any excise or enforcement tax, fees or fines to the State of Kansas. The application for any retailer's license may be rejected by the~~

director for any of the following reasons:

(1) The applicant does not provide all the information necessary for completion of the application process.

(2) The applicant does not include the proper license and registration fees.

(3) The applicant does not include the required bond.

(4) The applicant or its owners, officers, resident agent, or managers have violated a provision of the liquor control act or these regulations relating to sales of alcoholic liquor that may have been grounds for license revocation.

(5) The applicant or its owners, officers, resident agent, or managers are currently delinquent in payment of any gallonage tax, liquor enforcement tax, liquor drink tax, license fees or liquor-related fines to the state of Kansas.

(6) The applicant or its owners, officers, resident agent, or managers previously held a license issued under the liquor control act or the club and drinking establishment act, and when that license expired or was surrendered, the licensee was delinquent in payment of any gallonage tax, liquor enforcement tax, liquor drink tax, license fees, or liquor-related fines to the state of Kansas.

(7) The applicant has had a liquor license revoked for cause in Kansas or another state.

(8) The applicant or its owners, officers, resident agent, or managers have been convicted of a crime opposed to decency and morality.

~~(e) (d) For the purpose of determining qualification under subsections (c) and (d) of this regulation, any~~ Each person who provides financing to or leases premises to a retailer upon terms ~~which that~~ result in that person having a beneficial interest in the retailer's business shall be deemed to be a partner in the retailer's business. ~~A~~ Each person who provides financing to a retailer shall be deemed to have a beneficial interest in the retailer's business if the terms for repayment are conditioned on the amount of the retailer's receipts or profits from the sale of alcoholic liquor. A lessor shall be deemed to have a beneficial interest in a retailer's business if the lessor receives as rent, in whole or in part, a percentage of the retailer's receipts or profits from the sale of alcoholic liquor. ~~Financing or percentage rent provisions that exclude alcoholic liquor sales shall be subject to review and approval by the director.~~ (Authorized by K.S.A. 1991 Supp. 41-210; implementing K.S.A. 41-211; 41-301; 41-315; K.S.A. 1991 Supp. 41-710; K.S.A. 41-711; K.S.A. 1991 Supp. 2011 Supp. 41-310; as amended by L.

2012, ch. 144, sec 13, K.S.A. ~~1991~~ 2011 Supp. 41-311, as amended by ~~1992 HB 2719; 41-312;~~
L. 2012, ch. 144, sec. 14, K.S.A. ~~1991~~ 2011 Supp. 41-317, as amended by L. 2012, ch. 144, sec.
17; K.S.A. ~~1991 Supp. 41-703;~~ effective May 1, 1988; amended Aug. 6, 1990; amended, T-14-
11-9-92, Nov. 9, 1992; amended Dec. 21, 1992; amended P-_____.)

14-13-3. (Authorized by K.S.A. 41-210 as amended by L. 1987, Ch. 182, Sec. 10;
implementing K.S.A. 41-211, 41-318, 41-327; effective May 1, 1988; revoked P-
_____.)

**14-13-4. ~~Retailer must pay city or township~~ Local occupation or license tax and
~~purchase a federal retail stamp before making sales; display requirement.~~ (a) If the retail
premises are located in a city or county that imposes a local occupation or license tax, a retailer
shall not sell or offer for sale any alcoholic liquor until the retailer has paid ~~the annual~~
~~occupation or license tax imposed by the city or township in which the licensed premises are~~
~~located~~ the occupation or license tax.**

(b) ~~A retailer shall purchase from the United States bureau of alcohol, tobacco and~~
~~firearms a federal retail tax stamp or, if applicable, a federal wholesale tax stamp and shall~~
~~display that stamp, or proof of payment for the stamp, in public view on the licensed premises.~~
Each retailer whose licensed premises is located in a city or county that requires a local
occupation or license tax shall cause proof of payment of the occupation or license tax to be
framed and hung in a conspicuous place on the retailer's licensed premises. (Authorized by
K.S.A. ~~1989 Supp.~~ 41-210; implementing K.S.A. ~~1989~~ 2011 Supp. 41-310, as amended by L.
2012, ch. 144, sec. 13; effective May 1, 1988; amended Aug. 6, 1990; amended P-
_____.)

14-13-5. Retailers; ~~registration of employees, employees; roster;~~ responsibility for conduct of business and of employees. (a) ~~Each retailer shall register all employees with the director within five days after the employee begins work for the retailer and upon each renewal of the retailer's license. The registration shall be submitted on the forms provided by the director.~~

(b) Each retailer shall be responsible for the conduct of the retailer's business and shall be directly responsible for violations of the liquor control act or these regulations by any employee engaged in and acting in the course of employment.

~~(c) A retailer shall not employ:~~

~~(1) any person who is an employee of a licensed distributor or any person who is the spouse of an employee of a licensed distributor;~~

~~(2) any person who has been convicted of a felony; or~~

~~(3) any person who is under the age of 21 years.~~

(b) Each retailer shall maintain, on the licensed premises, a roster of all employees, including unpaid volunteers, who are involved in the sale or service of alcoholic liquor. This roster shall be made available for inspection upon request by the director, any agent or employee of the director, or secretary.

The roster required by this regulation shall contain each employee's first name, last name, middle initial, gender, and date of birth. (Authorized by K.S.A. 1989 Supp. 41-210; implementing K.S.A. 1989 Supp. 41-311, 41-312, 41-713 and

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K.S.A. 41-904; effective May 1, 1988; amended July 1, 1991; amended P-_____.)

14-13-6. Change of location of business; ~~application to director; permission to be endorsed on license.~~ ~~(a) A~~ Any retailer ~~shall not~~ may change the location of the licensed premises ~~until the director has endorsed the approval of the change on the license~~ only upon written permission of the director. ~~Each application to change locations of the licensed premises shall be made to the director and shall contain:~~

- ~~(a) A description of the proposed licensed premises;~~
- ~~(b) proof of ownership of the licensed premises or a lease of the licensed premises with at least nine months remaining on its terms; and~~
- ~~(c) a statement of all other information which has changed following the last regularly filed application of the retailer.~~ At least 10 days before changing the location of the business, the retailer shall submit a written request, on forms prescribed by the director, to change the location of the business.

- (c) Each request required by subsection (b) shall contain all of the following:
 - (1) The retailer's name and license number;
 - (2) the retailer's current business address;
 - (3) the retailer's new business address;
 - (4) a copy of a written lease or proof of ownership of the new premises sought to be licensed; and

(5) a certified statement, from the clerk of the city or county in which the premises sought to be licensed are located, that the premises are in one of the following areas:

(A) An area where the zoning regulations of the city, township, or county allow the operation of a retail liquor store; or

(B) an area where no zoning regulations have been adopted.

(d) Any request to change the location of a licensed business may be denied by the director for any of the following reasons:

(1) The new location is in an area where the zoning regulations of the city, township, or county do not allow the operation of a retail liquor store.

(2) The new location is within 200 feet of any school, college, or church.

(3) The new location has an inside entrance that connects with another place of business.

(Authorized by K.S.A. 41-210 ~~as amended by L. 1987, Ch. 182, Sec. 10;~~ implementing K.S.A. 41-315, K.S.A. 2011 Supp. 41-710, as amended by L. 2012, ch. 144, sec. 24, and K.S.A. 41-711; effective May 1, 1988; amended P-_____.)

14-13-7. Licenses, loss or destruction of; ~~application for and issuance of duplicate~~

license. (a) Whenever any license issued by the director is lost or destroyed before its expiration, the retailer to whom the license was issued may ~~make~~ submit a written application to the director for a duplicate license.

(b) The application required by subsection (a) shall ~~set forth all the facts and circumstances concerning the loss or destruction of the license and shall be sworn to by each person applying for the duplicate~~ be submitted on forms prescribed by the director and shall contain the facts and circumstances concerning the loss or destruction of the license.

(c) ~~Upon review of the application, a duplicate license may be issued by the director~~ The director may issue a duplicate license upon receipt of information that the license has been lost or destroyed. (Authorized by K.S.A. 41-210 as ~~amended by L. 1987, Ch. 182, Sec. 10;~~ implementing K.S.A. 41-211; effective May 1, 1988; amended P-_____.)

14-13-8. Transfer of retailer's stock of alcoholic liquor of ~~retailer whose license has terminated; applications~~ application for permission to ~~director by seller and purchaser; inventory and reports; seizure and sale of abandoned alcoholic liquor.~~ (a) When a retailer's license has expired or been surrendered or revoked, that retailer ~~shall~~ may apply to the director for permission to transfer the retailer's stock of alcoholic liquors to a ~~qualified~~ another licensee. ~~The retailer shall furnish the director with an inventory of the alcoholic liquors to be transferred. The licensee who desires to purchase the stock of alcoholic liquor shall apply to the director for permission to make such a purchase and shall submit a written report to the director listing the quantity, brands, and types of alcoholic liquor purchased and the address to which it was actually delivered after the purchase. The alcoholic liquor shall not be sold or purchased by a retailer or other licensee until written permission is granted by the director.~~

(b) The application to transfer the retailer's stock of alcoholic liquors shall be submitted on forms prescribed by the director and shall contain all of the following:

- (1) The retailer's name and license number;
- (2) the purchaser's name and license number;
- (3) the gross sale price of the transferred alcoholic liquor; and
- (4) the quantity, brand, and type of each container of alcoholic liquor to be transferred.

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(c) No alcoholic liquor in the possession of a retailer shall be transferred under the provisions of subsection (a) unless the director has granted written permission.

(d) The director may deny an application to transfer alcoholic liquor under the provisions of subsection (a) if the retailer owes any gallonage tax, liquor enforcement tax, liquor drink tax, license fees, or liquor-related fines to the state of Kansas.

(e) When a retailer's license has expired or been revoked and no appeal has been taken from the order of revocation, all alcoholic liquors in the possession of the retailer may be possessed by the director, pending a sale and transfer to another qualified licensee. The director or any employee or agent of the director may seize and sell any alcoholic liquor located on the premises subject to a retailer's license if the director determines that the alcoholic liquor has been abandoned by the licensee. The director may consider any of the following criteria in making a determination that the alcoholic liquor has been abandoned:

(1) The licensee has quit its occupation of the building, leaving alcoholic liquor in the building.

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(2) The licensee has been evicted and has made no attempt to collect the alcoholic liquor.

(3) Attempts to contact the licensee to determine its plans for the alcoholic liquor have been unsuccessful.

(4) The presence of the alcoholic liquor in the building poses a threat to the public health, safety, and welfare or the orderly regulation of the market.

(f) Upon the director's determination that the alcoholic liquor has been abandoned, the director shall notify the retailer, in writing, of the director's intent to seize and sell the alcoholic liquor. If, within seven calendar days after the date of the director's notice, the retailer has not notified the director that the retailer intends to maintain possession of the alcoholic liquor, the director may seize and sell the alcoholic liquor.

(g) The proceeds from the sale of alcoholic liquor under subsection (e) shall be deposited into the state general fund. (Authorized by K.S.A. 41-210 ~~as amended by L. 1987, Ch. 182, Sec. 40~~; implementing K.S.A. 41-1102; effective May 1, 1988; amended P-_____.)

14-13-9. Transactions prohibited, ~~agreements and~~; deliveries by retailer for sale or resale off licensed premises, ~~registration of vehicle~~. (a) Any retailer may sell and deliver alcoholic liquor to a club, drinking establishment, public venue, or caterer if all of the following conditions are met:

(1) All deliveries of alcoholic liquor are made to the licensed premises of a club, public venue, or drinking establishment and to the principal place of business of a caterer.

(2) All deliveries are made by ~~a registered~~ an employee of the retailer.

(3) ~~All deliveries are made in a registered vehicle of the retailer.~~

~~(4)~~ The retailer provides a sales slip or ~~voucher~~ numbered invoice, purchase order, or sales ticket for each item delivered as required by K.A.R. 14-13-10.

~~(5)~~ (4) The retailer receives payment for all deliveries before or at the time of the deliveries.

~~(6)~~ (5) The retailer has first obtained a federal wholesale basic permit and displays a sign on the licensed premises stating that the retailer is a “Wholesale Liquor Dealer Under Federal Law.”

~~(7)~~ (6) All deliveries of alcoholic liquor are made on those days and during those hours that a retailer may sell alcoholic liquor ~~as provided in~~ pursuant to K.S.A. 41-712, and amendments thereto.

~~(8)~~ (7) All deliveries originate from the licensed premises of the retailer.

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(b) ~~Each retailer who desires to transport alcoholic liquor shall register each vehicle to be used for the transportation of alcoholic liquor with the director, upon forms provided by the director, and shall maintain in each vehicle an identification card issued by the director. Each~~

~~registered delivery vehicle shall display the retail licensee's business name and address in plain block lettering on the front door panels of the delivery vehicle.~~

(~~e~~) Any retailer may sell alcoholic liquor to a temporary permit holder if all of the following conditions are met:

(1) Sales are made only upon the licensed premises of the retailer.

(2) No deliveries are made to a temporary permit holder ~~or an event sponsor~~.

(3) The retailer provides a sales slip or ~~voucher~~ numbered invoice, purchase order, or sales ticket as required by K.A.R. 14-13-10.

(~~d~~) (c) ~~Retailers~~ No retailer shall ~~not~~ sell or deliver any alcoholic liquor to any person with knowledge of, or with reasonable cause to believe, that the person to whom the liquor is sold or delivered has acquired the alcoholic liquor for the purpose of peddling or reselling the alcoholic liquor in violation of this

article ~~13 of these regulations~~, the Kansas liquor control act, or the club and drinking establishment act.

~~(e)~~ (d) All alcoholic liquor of a retail licensee shall be stored upon the licensed premises of the licensee. Alcoholic liquor shall not be stored upon the licensed premises after the sale.

(Authorized by K.S.A. 41-210; implementing K.S.A. 41-210, K.S.A. 41-308, as amended by L. 2012, ch. 144, sec. 10, and K.S.A. 41-717, as amended by L. 2012, ch. 144, sec. 26; effective May 1, 1988; amended Aug. 6, 1990; amended July 1, 1991; amended Nov. 21, 2003; amended P-_____.)

14-13-10. Records of purchases and sales; ~~invoices or sales tickets to be furnished by distributor or retailer; retention of records; records subject to inspection; required reports to director.~~ (a) Each retailer purchasing alcoholic liquor from a licensed distributor shall obtain a numbered invoice, purchase order, or sales ticket ~~which~~ that contains the following information:

- (1) The date of purchase;
- (2) the name, address, and license number of the retailer;
- (3) the name, address, and license number of the distributor;
- (4) the name of the individual making the purchase for the retailer;
- (5) the brand, size, ~~proof,~~ and amount of each brand purchased;
- (6) the unit cost and total price for each brand and size; and
- (7) the subtotal of the cost of the alcoholic liquor purchased and the total cost of the order including delivery charge, if any.

(b) Each retailer engaged in sales to licensed clubs, drinking establishments, caterers, public venues, or temporary permit holders shall provide a numbered invoice, purchase order, or sales ticket in connection with all purchases, which shall include the following information:

- (1) The date of purchase;
- (2) the name, address, and license number of the retailer;
- (3) the name, address, and license number of the club, drinking establishment, caterer, public venue, or temporary permit holder;

(4) the name of the individual making the purchase for the club, drinking establishment, caterer, public venue, or temporary permit holder and that individual's position with the club, drinking establishment, caterer, public venue, or temporary permit holder;

(5) the brand, size, ~~proof~~, and amount of each brand purchased;

(6) the unit cost and total price for each brand and size; and

(7) the subtotal of the cost of the alcoholic liquor sold and the total cost of the order including enforcement tax and delivery charge, if any.

(c) Each retailer who holds a federal wholesale basic permit shall, between the ~~1st~~ first and the ~~15th~~ fifteenth day of each month, upon a form ~~to be provided~~ prescribed by the director, submit a certified report of all sales made to any licensed club, drinking establishment, caterer, public venue, or temporary permit holder during the preceding month. The report shall include the following information for each order placed by and sold to a club, drinking establishment, caterer, public venue, or temporary permit holder:

(1) The date of the order;

(2) the name, address, and license number of the club, drinking establishment, caterer, public venue, or temporary permit holder; and

(3) the total price paid for each order.

(d) The retailer shall keep a copy of each invoice, purchase order, or sales ticket required by this regulation ~~on the licensed premises for at least~~ for at least three years from the date the alcoholic liquor was sold. ~~These records shall be available for inspection by the director or any agent or employee of the director or secretary upon request.~~

(c) ~~Each retailer shall keep on its licensed premises for a period of three years receipts for all point of sale materials purchased by the licensee from a distributor under authority of K.A.R. 14-10-1 et seq.~~ The records required by this regulation shall be available for inspection by the director, any agent or employee of the director, or the secretary upon request.

(1) Each record required by the regulation shall be maintained on the retailer's licensed premises for at least 90 days after the sale. These records may be maintained in electronic format but shall be capable of being printed immediately upon request.

(2) After 90 days, all records required by this regulation may be stored and maintained off the licensed premises but shall be provided in electronic or paper format upon request.

(Authorized by K.S.A 41-210 ~~as amended by L. 1987, Ch.~~

~~182, Sec. 10; implementing K.S.A. 41-308 as amended by L. 1987, Ch. 183, Sec. 1, L. 2012, ch.~~
~~144, sec. 10, K.S.A. 41-407, K.S.A. 41-703 as amended by L. 1987, Ch. 182, Sec. 48, and~~
~~K.S.A. 41-708, 41-718 as amended by L. 1987, Ch. 182, Sec. 53; effective May 1, 1988;~~
amended P-_____.)

14-13-11. (Authorized by K.S.A. 1989 Supp. 41-210; implementing K.S.A. 1989 Supp. 41-308; K.S.A. 41-715; effective May 1, 1988; amended Aug. 6, 1990; revoked P-
_____.)

14-13-13. Prohibited conduct of retailer. ~~Any retailer violating any subsection of this regulation shall be cited by the director and subject to the penalties as provided in K.A.R. 14-16-14 et seq.:~~

(a) A retailer shall not permit gambling or the possession of a gambling or gaming device of any kind or character on or in the licensed premises. However, a any retailer may sell, operate, possess, and offer to the public lottery ~~devices~~ tickets permitted by the Kansas lottery act if the retailer is authorized by the Kansas lottery commission to do so.

(b) A retailer shall not, as a condition for the sale or delivery of alcoholic liquor to a customer or to any other licensee who is licensed under the liquor control act or the club and drinking establishment act, require that the other licensee or customer purchase or contract to purchase alcoholic liquor of another form, quantity, or brand in addition to or partially in lieu of that specifically ordered or desired by the licensee or customer.

(c) A retailer shall not sell or deliver alcoholic liquor of a particular form or brand to a customer or to any other licensee who is licensed under the liquor control act or the club and drinking establishment act under any arrangement, agreement, or understanding, direct or implied, such that the sale or delivery will be made only if the other licensee or customer also buys or accepts delivery of a quantity of alcoholic liquor of another form or brand.

(d) A retailer shall not refuse to permit the director or any agent or employee of the director to inspect the licensed premises and any alcoholic liquor in the retailer's possession or under the retailer's control upon the licensed premises or upon any other premises where the retailer has stored any alcoholic liquor.

(e) A retailer shall not make any false or misleading representations with respect to any alcoholic liquor product, or any licensed premises or in connection with a sales transaction relating to brand, type, proof, or age of an alcoholic liquor or beer. ~~Further, A licensee~~ retailer shall not deceive or attempt to deceive a customer by removing or changing any label or sanitation cover from a container of alcoholic liquor ~~or beer~~.

(f) A retailer shall not sell or remove any alcoholic liquor from the licensed premises on any day other than a legal day for the sale of alcoholic liquor at retail, after the legal closing hour or before the legal opening hour.

(g) A retailer shall not, directly or indirectly, offer or furnish any gifts, prizes, premiums, rebates, or similar inducements with the sale of any alcoholic liquor, nor shall any retailer directly or indirectly offer, furnish, or sell any

alcoholic liquor at less than its cost plus enforcement tax, except ~~that~~ according to the following:

(1) a Any retailer may include in the sale of alcoholic liquor any goods included by the manufacturer in packaging with the alcoholic liquor. Goods included by the manufacturer ~~must~~ shall be packaged with one or more original packages of alcoholic liquor in such a manner as to be delivered to the consumer as a single unit. A retailer shall not sell or give away goods included by a manufacturer ~~which that~~ are not packaged as a single unit with the original package of alcoholic liquor as shipped by the manufacturer; ~~and~~.

(2) a Any retailer may distribute consumer advertising ~~specialties~~ specialty items, subject to the limitations imposed by this regulation. For the purposes of this regulation, consumer advertising ~~specialties~~ specialty items shall be limited to the following: ~~ash trays~~ ashtrays, bottle or can openers, ~~cork screws~~ corkscrews, matches, printed recipes, informational pamphlets, cards and leaflets, blotters, post cards, posters, printed sports schedules, pens, pencils, and other ~~similar~~ items of minimal value as approved by the director. Each consumer advertising specialty item shall contain advertising material relating to a brand name of

alcoholic liquor or to the operation of the retail liquor store distributing the consumer advertising specialty item. No charge may be made for any consumer advertising specialty item or any purchase required in order to receive any consumer advertising specialty item.

(h) A retailer shall not open or permit to be opened, on the licensed premises, any container or original package containing alcoholic liquor or cereal malt beverage, except as

~~provided in K.A.R. 14-13-16 and K.A.R. 14-13-17. The presence of any unsealed container or original package containing alcoholic liquor or cereal malt beverage found on the licensed premises shall be presumed to have been opened on the licensed premises.~~

~~(i) A retailer shall not have or permit on the licensed premises any alcoholic liquor which does not have the Kansas identification stamp or strip affixed as required by law or rule and regulation of the director.~~

~~(j) A retailer shall not permit the drinking of alcoholic liquors or cereal malt beverage in, on, or about the licensed premises, except that any consumer who is at least 21 years of age may sample alcoholic liquor available for sale by the retailer, on the licensed premises and at adjacent premises monitored and~~

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~~regulated by the director, except as provided in K.A.R. 14-13-16 and K.A.R. 14-13-17.~~

~~(k) (j) A retailer shall not allow an intoxicated person to frequent, loiter, or be employed upon the licensed premises.~~

~~A retailer's manager or employee shall not become intoxicated while on duty for the licensee.~~

~~(l) (k) A retailer shall not permit any other person to use the licensed premises for the purpose of carrying on any business activity other than the sale of alcoholic liquor.~~

~~(m) (l) A retailer shall not accept or receive from any agent or employee of any licensed distributor's agent, servant, employee or any other person, distributor any cash rebate or thing of value, or enter into or be a party to any agreement or transaction whatsoever with any licensed distributor, directly or indirectly, which that would result in, or have as its purpose, the purchase~~

of any alcoholic ~~liquors~~ liquor by the retailer at a price less than the listed price ~~which~~ that has been filed by the distributor in the office of the director.

~~(n)~~ (m) A retailer shall not sell, give, or deliver any intoxicating liquor to any person under the age of 21 years.

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~~(o)~~ A retailer shall not sell, give, or deliver any intoxicating liquor to any person if the retailer knows or has reason to know that the intoxicating liquor is being obtained for a person under 21 years of age.

~~(p)~~ (n) A retailer shall not purchase or sell any alcoholic liquor on credit. A retailer shall not enter into any transaction or scheme the purpose of which is to buy or sell alcoholic liquor on credit. The following transactions shall be considered to be buying or selling alcoholic liquor on credit:

- (1) Taking or giving a ~~post-dated~~ postdated check;
- (2) giving an insufficient funds check;
- (3) taking a check with knowledge that there are insufficient funds to pay the check upon presentment;
- (4) accepting delivery from a distributor without making payment for the alcoholic liquor when delivered or ~~prior to~~ before delivery;
- (5) making delivery to a club, drinking establishment, or caterer without receiving payment ~~prior to~~ before or at the time of delivery; and
- (6) allowing any alcoholic liquor to be removed from the licensed premises without receiving payment for the ~~same~~; and alcoholic liquor
- ~~(7) accepting a credit card in payment of alcoholic liquor.~~

~~(e)~~ (o) A retailer shall not fail to make the reports or keep the records required by these regulations.

~~(f)~~ A retailer shall not do anything that is otherwise prohibited by any other provision of these regulations.

~~(g)~~ (p) A retailer who is authorized by the Kansas lottery commission to sell ~~authorized~~ lottery ~~devices~~ tickets shall not commingle the proceeds from the sale of the lottery ~~devices~~ tickets with the proceeds from the sale of ~~spirits, wine or beer~~ alcoholic liquor.

~~(h)~~ (q) A retailer shall not refill a package of alcoholic liquor and shall not sell alcoholic liquor in anything other than the original package. (Authorized by K.S.A. ~~1991 Supp.~~ 41-210; implementing K.S.A. 41-211, K.S.A. ~~1991 Supp.~~ 41-308, as amended by ~~1992 HB 2840~~; L. 2012, ch. 144, sec. 10, K.S.A. 41-702; , K.S.A. 41-703; , K.S.A. 41-717; , as amended by L. 2012, ch. 144, sec. 26, K.S.A. 41-718; ~~41-719~~ , as amended by L. 2012, ch. 144, sec. 27; effective May 1, 1988; amended, T-14-11-9-92, Nov. 9, 1992; amended Dec. 21, 1992; amended, T-14-6-28-12, July 1, 2012; amended, T-_____, _____; amended P-_____.)

14-13-15. “Doing business as” names. (a) Each applicant for a ~~retail-liquor store~~ retailer’s license shall include in the license application the “doing business as” (d/b/a) name by which the applicant wishes to operate the store for which licensure is sought.

(b) An application with a d/b/a name that suggests to the public that multiple stores are part of a chain or are owned or operated by a corporation shall not be approved by the director.

(c) Each ~~liquor store~~ retailer shall post its d/b/a name within the store or on the exterior of the store.

(d) Each retailer wishing to change its approved d/b/a name shall submit, on a form prescribed by the director, a request for approval to change its d/b/a name. The request shall contain all of the following:

(1) The retailer’s name and license number;

(2) the retailer’s current d/b/a name; and

(3) the retailer’s requested new d/b/a name.

(e) The director may deny a retailer’s request to change its d/b/a name for any of the following reasons:

(1) The requested d/b/a name is currently in use in the same county where the retailer’s premises is located.

(2) The requested d/b/a name misleads the public by indicating that the retail store is part of a chain.

(3) The requested d/b/a name misleads the public by indicating that the retail store is owned by a corporation. (Authorized by K.S.A. 41-210; implementing K.S.A. ~~41-104, 41-210,~~

41-211; and K.S.A. ~~2001~~ 2011 Supp. 41-311, as amended by L. 2012, ch. 144, sec. 14; effective
July 5, 2002; amended P-_____.)

14-13-16. Tasting events; requirements; prohibitions. Any retailer may provide free samples of alcoholic liquor offered for sale by the retailer to members of the general public on the retailer's licensed premises and at adjacent premises as approved by the director.

(a) No retailer shall receive payment from any person, either directly or indirectly, to conduct a tasting event.

(b)(1) Each container of alcoholic liquor to be sampled shall be removed from the retailer's inventory.

(2) The retailer shall clearly mark each container of alcoholic liquor removed from inventory for sampling as reserved for samples only. The marking shall not obscure the label of the alcoholic liquor container.

(c) No samples of alcoholic liquor may be served on a retailer's licensed premises or on adjacent premises at any time other than those hours and days during which the retailer may sell alcoholic liquor, pursuant to K.S.A. 41-712 and amendments thereto.

(d) Except as specifically allowed by this subsection, no employee of the retailer who is on duty may consume alcoholic liquor during the tasting event.

The owner or manager of a retail premises may consume wine from an original container sufficient to verify that the wine has not deteriorated in quality or has otherwise become unfit for human consumption.

(e) The director, or any agent or employee of the director, shall be granted immediate entry to and inspection of any adjacent premises used for tasting events at any time the adjacent premises are occupied. Failure to grant immediate entry shall be grounds for revocation of the retailer's license.

(f) Except as specifically allowed in this subsection, no retailer may provide any food, service, or other thing of value other than samples of alcoholic liquor at any tasting event.

(1) Any retailer conducting a tasting event on the licensed premises may provide cups and napkins.

(2) Any retailer conducting a tasting event on adjacent premises may provide cups, napkins, food, mixers, and other similar items.

(g) A licensed distributor or its agent, employee, or representative shall not purchase alcoholic liquor for tasting, pour samples, or provide any supplies or things of value, except that an agent, employee, or representative of a distributor may provide education on the product or products being sampled.

(h) The mixing of alcoholic liquor with any other substance shall be prohibited on the licensed premises. Alcoholic liquor may be mixed with other substances for sampling during tasting events on adjacent premises.

(i)(1) Any partially used container of alcoholic liquor removed from the licensed premises for tasting at adjacent premises shall be disposed of or returned to the licensed premises before the retailer's close of business on the same date the container was removed.

(2) Each retailer shall perform one of the following for each partially used container of alcoholic liquor used for sampling:

(A) Dispose of the container;

(B) store the container on the licensed premises in a secured, locked storage area, separate from containers of alcoholic liquor available for purchase; or

(C) secure the container with a tamperproof seal around the opening of the container.

(j) Each retailer engaged in tasting events shall keep, for at least three years, records of all alcoholic liquor removed from inventory for the tasting events. These records shall be available for inspection by the director, any agent or employee of the director, or the secretary, upon request.

(1) Each record required by this regulation shall be maintained on the licensed premises of the retailer for at least 90 days after the date on which the

alcoholic liquor was removed from inventory. These records may be maintained in electronic format but shall be capable of being printed immediately upon request.

(2) After 90 days, any record required by this regulation may be stored electronically and maintained off the licensed premises. Each record shall be provided in electronic or paper format, upon request. (Authorized by K.S.A. 41-210; implementing L. 2012, ch. 144, sec. 3; effective, T-14-6-28-12, July 1, 2012; effective, T-_____, _____; effective P-_____.)

14-13-17. Tasting events; supplier participation; requirements; prohibitions. Any supplier may participate in a retail tasting event through the supplier's employee or agent. For the purpose of this regulation, "supplier" shall mean any person holding a permit issued pursuant to K.S.A. 41-331, and amendments thereto.

(a) A supplier's "agent" may include a third party contracted for the purpose of conducting the tasting. This term shall not include a licensed distributor or any agent, employee, or representative of a licensed distributor.

(b) For the purpose of participation in tasting events, each licensed distributor who also possesses a Kansas supplier permit shall be limited to providing educational information about the product or products being sampled. A distributor or its agent or employee shall not participate in any other manner in a tasting event.

(c) The supplier shall purchase alcoholic liquor to be sampled at a tasting event from the retailer. For each purchase under this regulation, the retailer shall provide the supplier with a numbered invoice or sales slip that contains the following information:

- (1) The date of purchase;
- (2) the name and license number of the retailer;
- (3) the name and Kansas permit number of the supplier;
- (4) the brand, size, and quantity of all alcoholic liquor purchased; and

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(5) the subtotal of the cost of the alcoholic liquor and the total cost of the purchase, including enforcement tax.

(d) Any supplier may store containers of alcoholic liquor used for sampling at a tasting event on the retailer's licensed premises if all of the following conditions are met:

(1) Each container of alcoholic liquor is clearly marked, in a manner that does not obscure the label, as reserved for samples only.

(2) The container is secured in a locked storage area separate from containers of alcoholic liquor available for purchase or is secured with a tamper-proof seal around the opening of the container.

(3) The container is accompanied by a copy of the invoice provided to the supplier by the retailer.

(e)(1) Any supplier participating in a tasting event on the retailer's licensed premises may provide cups, napkins, food, and similar items.

(2) Any supplier participating in a tasting event on the retailer's adjacent premises may provide nonalcoholic mixers, cups, napkins, food, and similar items.

(f) Each retailer who sells alcoholic liquor to a supplier participating in a tasting event shall keep a copy of the invoice or sales slip required by this regulation for at least three years. The records required by this subsection shall be available for inspection by the director, any agent or employee of the director, or the secretary, upon request.

(1) Each record required by this regulation shall be maintained on the retailer's licensed premises for at least 90 days after the sale. These records may be maintained in electronic format but shall be capable of being printed immediately upon request.

(2) After 90 days, any record required by this regulation may be stored electronically and maintained off the licensed premises. Each record shall be provided in electronic or paper format, upon request. (Authorized by K.S.A. 41-210; implementing L. 2012, ch. 144, sec. 3; effective, T-14-6-28-12, July 1, 2012; effective, T-_____, _____; effective P-_____.)

14-13-18. Change of ownership; notice to director. (a) Each transfer of ownership in a business association holding a retailer's license that results in any person holding a beneficial interest in the license shall be reported to the director.

(b) The licensee shall submit notification of any change of ownership required by this regulation at least 20 days before the transfer of ownership.

(c) The licensee shall submit the notification required by subsection (b) on forms prescribed by the director and shall include all information necessary to determine the continued eligibility of the licensee under K.S.A. 41-311, and amendments thereto. (Authorized by K.S.A. 41-210; implementing K.S.A. 2011 Supp. 41-311, as amended by L. 2012, ch. 144, sec. 14; effective P-_____.)

ECONOMIC IMPACT STATEMENT

K.A.R. 14-13-1

I. Summary of amendment to the existing regulation.

This amendment implements section 3 of Substitute for HB 2689, allowing retail licensees to serve free samples of alcoholic liquor on the licensed premises and at adjacent premises monitored and regulated by the division of ABC. Specifically, the amendment adds a definition of “adjacent premises”, “mixer”, and “tasting event”.

Other definitions that were not used in the act, were mere restatements of the statutory definitions, or inconsistent with those definitions were removed. Definitions of “manager” and “crime opposed to decency and morality” were added.

II. Reason or reasons the proposed regulation is required, including whether or not the regulation is mandated by federal law.

Substitute for HB 2689 creates a new section which authorizes a retailer to serve free samples of alcoholic liquor on the licensed premises and at adjacent premises monitored and regulated by the division of ABC. It also allows suppliers to participate in any tasting event conducted by a retailer.

“Adjacent premises” is not defined in the liquor control act or HB 2689. Also used in subsequent regulations concerning retail-hosted tastings are the terms “mixer” and “tasting event”, neither of which is defined by the bill. Also, after discussions with industry members, it was determined the term “manager”, which is not defined in the act, needed a definition.

The regulation is not mandated by federal law.

III. Anticipated economic impact upon the Kansas Department of Revenue.

None.

IV. Anticipated economic impact upon other government agencies and upon private business or individuals.

This regulation creates no economic impact on other government agencies or private businesses or individuals.

V. Description of any less costly or less intrusive methods that were considered by the Department of Revenue for achieving the state purpose of the regulation and the reason that those methods were rejected in favor of the proposed regulation.

None.

ECONOMIC IMPACT STATEMENT

K.A.R. 14-13-2

I. Summary of amendment to the existing regulation.

This amendment removes many licensing requirements that are mere restatements of the statute and adds a section allowing the Director to reject an application for a variety of reasons listed in the regulations. Other amendments were technical or language revisions requested by the Department of Administration or the Attorney General's office.

II. Reason or reasons the proposed regulation is required, including whether or not the regulation is mandated by federal law.

The Liquor Control Act requires the ABC Director to issue a license to any qualified applicant but does not contain any provision requiring an applicant to provide the information necessary for the Director to determine the applicant's eligibility. This regulation requires an applicant to submit, with its application certain information necessary to determine the eligibility of the applicant and the proposed location of the licensed premises. The amended regulation also provides reasons why the Director may reject an application.

The regulation is not mandated by federal law.

III. Anticipated economic impact upon the Kansas Department of Revenue.

None.

IV. Anticipated economic impact upon other government agencies and upon private business or individuals.

This regulation creates no economic impact on other government agencies or private businesses or individuals.

V. Description of any less costly or less intrusive methods that were considered by the Department of Revenue for achieving the state purpose of the regulation and the reason that those methods were rejected in favor of the proposed regulation.

None.

ECONOMIC IMPACT STATEMENT

K.A.R. 14-13-3

I. **Summary of existing regulation.**

This regulation establishes procedures for a “short method” of license renewal.

II. **Reason or reasons the proposed regulation is being revoked, including whether or not the regulation is mandated by federal law.**

The process has not been used for many years, and current ABC and industry practices make it impractical as well as unnecessary. Past (and future) systems upgrades and a more user-friendly application process make a separate application procedure moot.

The regulation is not mandated by federal law.

III. **Anticipated economic impact upon the Kansas Department of Revenue.**

This regulation creates no economic impact.

IV. **Anticipated economic impact upon other government agencies and upon private business or individuals.**

This regulation creates no economic impact on other government agencies or on private business or individuals.

V. **Description of any less costly or less intrusive methods that were considered by the Department of Revenue for achieving the state purpose of the regulation and the reason that those methods were rejected in favor of the proposed regulation.**
None.

ECONOMIC IMPACT STATEMENT

K.A.R. 14-13-4

I. Summary of amendment to the existing regulation.

This amendment clarifies requirements for licensees located in cities and counties which require a local occupation or license tax, and requires such licensees to post proof of payment to be posted in a conspicuous place on the licensed premises.

II. Reason or reasons the proposed regulation is required, including whether or not the regulation is mandated by federal law.

The Liquor Control Act authorizes, but does not require, a local government to impose a local occupation or license tax on a liquor retailer. This regulation allows ABC to ensure such tax is paid timely by the licensee, and no sales of liquor take place in violation of local law.

The requirement that proof of payment be posted makes it apparent to both ABC and local authorities that the tax has been paid.

The regulation is not mandated by federal law.

III. Anticipated economic impact upon the Kansas Department of Revenue.

None.

IV. Anticipated economic impact upon other government agencies and upon private business or individuals.

This regulation creates no economic impact on other government agencies or private businesses or individuals.

V. Description of any less costly or less intrusive methods that were considered by the Department of Revenue for achieving the state purpose of the regulation and the reason that those methods were rejected in favor of the proposed regulation.

None.

ECONOMIC IMPACT STATEMENT

K.A.R. 14-13-5

I. Summary of amendment to the existing regulation.

This amendment removes the requirement that retailers notify ABC within five days of hiring an employee and replaces it with a requirement that the retailer maintain a roster of employees, containing the employee's name, date of birth and gender. Subsection (c), concerning persons a retailer may not hire, was removed as it is merely restatement of a statute.

II. Reason or reasons the proposed regulation is required, including whether or not the regulation is mandated by federal law.

The Liquor Control Act prohibits a retailer from employing certain persons. In order to ensure compliance with that provision, ABC needs to know who the retailer is employing. The previous method of "registering" employees with ABC upon hiring we felt was overly burdensome on both the licensee and the ABC. The roster can be a living document, easily amended, and maintained at the retailer's place of business, yet contain all information ABC requires to verify an employee's eligibility.

The regulation is not mandated by federal law.

III. Anticipated economic impact upon the Kansas Department of Revenue.

None.

IV. Anticipated economic impact upon other government agencies and upon private business or individuals.

This regulation creates no economic impact on other government agencies or private businesses or individuals.

V. Description of any less costly or less intrusive methods that were considered by the Department of Revenue for achieving the state purpose of the regulation and the reason that those methods were rejected in favor of the proposed regulation.

None.

ECONOMIC IMPACT STATEMENT

K.A.R. 14-13-6

I. Summary of amendment to the existing regulation.

This amendment provides a procedure to allow a retailer to change the location of its business upon written permission of the Director. The amendment includes what information the licensee is required to submit for the Director's review and provides reasons why the Director may deny such a request.

II. Reason or reasons the proposed regulation is required, including whether or not the regulation is mandated by federal law.

The Liquor Control Act requires that each retailer's premises meet certain criteria. Also, the retailer's premises must be listed in the application for licensure. If the retailer later decides to relocate to a new premise, the new premises must be disclosed to ABC and the new premises must meet all the same criteria as the initial premises. ABC needs a mechanism to verify the new premises meets all the necessary criteria.

The regulation is not mandated by federal law.

III. Anticipated economic impact upon the Kansas Department of Revenue.

None.

IV. Anticipated economic impact upon other government agencies and upon private business or individuals.

This regulation creates no economic impact on other government agencies or private businesses or individuals.

V. Description of any less costly or less intrusive methods that were considered by the Department of Revenue for achieving the state purpose of the regulation and the reason that those methods were rejected in favor of the proposed regulation.

None.

ECONOMIC IMPACT STATEMENT

K.A.R. 14-13-7

I. Summary of amendment to the existing regulation.

Nothing material is changing, other than the request for a duplicate license must now be made upon forms prescribed by the Director. This is mainly a technical amendment.

II. Reason or reasons the proposed regulation is required, including whether or not the regulation is mandated by federal law.

Under the Liquor Control Act, the sale of liquor is strictly regulated by the issuance of retail licenses. ABC wants to ensure that fraudulent or duplicate licenses are not being used for the illegal sale of alcoholic liquor, but there needs to be a mechanism in place for legitimate retailers to use to replace licenses which have been lost or damaged. This regulation allows the ABC to respond to retailers' needs but ensure an orderly market for alcoholic liquor by requiring a retailer requesting a duplicate license to show cause for the request.

The regulation is not mandated by federal law.

III. Anticipated economic impact upon the Kansas Department of Revenue.

None.

IV. Anticipated economic impact upon other government agencies and upon private business or individuals.

This regulation creates no economic impact on other government agencies or private businesses or individuals.

V. Description of any less costly or less intrusive methods that were considered by the Department of Revenue for achieving the state purpose of the regulation and the reason that those methods were rejected in favor of the proposed regulation.

None.

ECONOMIC IMPACT STATEMENT

K.A.R. 14-13-8

I. Summary of amendment to the existing regulation.

This amendment requires a retailer wishing to transfer its inventory to another licensee to submit certain information to the Director for approval. The amendment further provides reasons why the Director may deny the retailer's request and also provides a method of dealing with liquor which has been abandoned by the retailer.

II. Reason or reasons the proposed regulation is required, including whether or not the regulation is mandated by federal law.

The liquor control act allows a retailer who is going out of business to sell its inventory of alcoholic liquor to another qualified licensee, but also restricts certain retailers from doing so. To ensure compliance with the act, ABC needs to know when a retailer is transferring inventory, how much and to whom. There is also a problem with retailers who quit the business, leaving their inventory behind. In order to ensure an orderly market and protect the public health and safety, ABC needs a mechanism to seize and sell alcoholic liquor which has been abandoned by the retailer. The seizure would only take place after notice to the retailer and a chance for the retailer to retrieve the liquor.

The regulation is not mandated by federal law.

III. Anticipated economic impact upon the Kansas Department of Revenue.

None.

IV. Anticipated economic impact upon other government agencies and upon private business or individuals.

This regulation creates no economic impact on other government agencies or private businesses or individuals.

V. Description of any less costly or less intrusive methods that were considered by the Department of Revenue for achieving the state purpose of the regulation and the reason that those methods were rejected in favor of the proposed regulation.

None.

ECONOMIC IMPACT STATEMENT

K.A.R. 14-13-9

I. Summary of amendment to the existing regulation.

This amendment adds public venues to the types of licensed premises a retailer may sell and deliver alcoholic liquor to. The section requiring retailers to use delivery vehicles which have been registered with the ABC to deliver alcoholic liquor to licensed premises was removed.

Other technical amendments were required by the Department of Administration or the Attorney General's office.

II. Reason or reasons the proposed regulation is required, including whether or not the regulation is mandated by federal law.

2012 Sub. for HB 2689 created a new type of license for consumption of alcoholic liquor on the licensed premises: a public venue license. Retailers are authorized under the Liquor Control Act to sell and deliver alcoholic liquor to certain licensees, including public venues.

This regulation contains requirements for such sale and delivery of alcoholic liquor to licensed premises. These requirements ensure the retailer complies with all state and federal laws concerning the sale of alcoholic liquor to licensed entities for resale.

The regulation is not mandated by federal law.

III. Anticipated economic impact upon the Kansas Department of Revenue.

None.

IV. Anticipated economic impact upon other government agencies and upon private business or individuals.

This regulation creates no economic impact on other government agencies or private businesses or individuals.

V. Description of any less costly or less intrusive methods that were considered by the Department of Revenue for achieving the state purpose of the regulation and the reason that those methods were rejected in favor of the proposed regulation.

None.

ECONOMIC IMPACT STATEMENT

K.A.R. 14-13-10

I. Summary of amendment to the existing regulation.

This amendment allows a retailer to maintain records of purchases and sales of alcoholic liquor in electronic format. The requirement that proof of the alcoholic liquor purchased be included on the invoice or sales slip was removed, as it serves no real purpose.

The amendment also adds the new public venue to the list of licensees to which a retailer selling alcoholic liquor must issue a numbered sales slip or invoice containing the required information.

Other technical amendments were required by the Department of Administration or the Attorney General's office.

II. Reason or reasons the proposed regulation is required, including whether or not the regulation is mandated by federal law.

2012 Sub. for HB 2689 created a new type of license for consumption of alcoholic liquor on the licensed premises: a public venue license. Retailers are authorized under the Liquor Control Act to sell and deliver alcoholic liquor to certain licensees, including public venues.

This regulation contains record-keeping and reporting requirements for retailers engaged in sales of alcoholic liquor to other licensees, including public venues. It also contains record-keeping requirements for retailers when they purchase alcoholic liquor from distributors. The record-keeping and reporting requirements ensure an orderly market and the proper collection of taxes.

The regulation is not mandated by federal law.

III. Anticipated economic impact upon the Kansas Department of Revenue.

None.

IV. Anticipated economic impact upon other government agencies and upon private business or individuals.

This regulation creates no economic impact on other government agencies or private businesses or individuals.

V. Description of any less costly or less intrusive methods that were considered by the Department of Revenue for achieving the state purpose of the regulation and the reason that those methods were rejected in favor of the proposed regulation.

None.

ECONOMIC IMPACT STATEMENT

K.A.R. 14-13-11

I. Summary of existing regulation.

This regulation provides restrictions and requirements for signs on and about the retailer's premises.

II. Reason or reasons the proposed regulation is being revoked, including whether or not the regulation is mandated by federal law.

In 1996, in *44 Liquor Mart, Inc. v. Rhode Island*, the United States Supreme Court held that restriction on the advertising of alcoholic liquor was an unconstitutional restraint on free speech. This regulation that restricts signage restricts advertising and is, therefore, unconstitutional.

The regulation is not mandated by federal law.

III. Anticipated economic impact upon the Kansas Department of Revenue.

This regulation creates no economic impact.

IV. Anticipated economic impact upon other government agencies and upon private business or individuals.

This regulation creates no economic impact on other government agencies or on private business or individuals.

V. Description of any less costly or less intrusive methods that were considered by the Department of Revenue for achieving the state purpose of the regulation and the reason that those methods were rejected in favor of the proposed regulation.

None.

ECONOMIC IMPACT STATEMENT

K.A.R. 14-13-13

I. Summary of amendment to the existing regulation.

This amendment implements section 3 of Substitute for HB 2689, allowing retail licensees to serve free samples of alcoholic liquor on the licensed premises and at adjacent premises monitored and regulated by the division of ABC. Specifically, the regulation was amended to remove the prohibitions on open containers and consumption of liquor on the licensed premises. The prohibition on a retailer accepting credit cards for payment of alcoholic liquor was removed as it contradicts current state law.

Additional amendments were made to clean up outdated language.

II. Reason or reasons the proposed regulation is required, including whether or not the regulation is mandated by federal law.

Substitute for HB 2689 creates a new section which authorizes a retailer to serve free samples of alcoholic liquor on the licensed premises and at adjacent premises monitored and regulated by the division of ABC. It also allows suppliers to participate in any tasting event conducted by a retailer.

This regulation currently prohibits open containers and consumption of liquor on the retail premises. Those prohibitions must be removed to comply with the express intent of the legislature.

The regulation is not mandated by federal law.

III. Anticipated economic impact upon the Kansas Department of Revenue.

None.

IV. Anticipated economic impact upon other government agencies and upon private business or individuals.

This regulation creates no economic impact on other government agencies. Licensees may see some increase in business through samples.

V. Description of any less costly or less intrusive methods that were considered by the Department of Revenue for achieving the state purpose of the regulation and the reason that those methods were rejected in favor of the proposed regulation.

None.

ECONOMIC IMPACT STATEMENT

K.A.R. 14-13-15

I. Summary of amendment to the existing regulation.

This amendment provides a procedure for retailers wishing to change their doing business as (“d/b/a”) names and reasons why the Director may refuse a request to change a d/b/a name.

Other technical amendments were required by the Department of Administration or the Attorney General’s office.

II. Reason or reasons the proposed regulation is required, including whether or not the regulation is mandated by federal law.

The Liquor Control Act prohibits a corporation from getting a retailer’s license and prohibits an individual from holding more than one retailer’s license, in essence, prohibiting “chains”. Usage by a retailer of a d/b/a name that is currently in use may indicate to the public that the store is part of a chain. Each d/b/a name is, therefore, scrutinized by ABC upon application for the license.

ABC needs a mechanism to verify that a d/b/a name used by a retailer does not indicate the retailer is part of a chain. Also, local law enforcement, when reporting violations to the ABC often use the d/b/a name. ABC needs to know what a retailer is using as a d/b/a name to efficiently and effectively respond to complaints from both law enforcement and citizens.

The regulation is not mandated by federal law.

III. Anticipated economic impact upon the Kansas Department of Revenue.

None.

IV. Anticipated economic impact upon other government agencies and upon private business or individuals.

This regulation creates no economic impact on other government agencies or private businesses or individuals.

V. Description of any less costly or less intrusive methods that were considered by the Department of Revenue for achieving the state purpose of the regulation and the reason that those methods were rejected in favor of the proposed regulation.

None.

ECONOMIC IMPACT STATEMENT

K.A.R. 14-13-16

I. Summary of proposed regulation.

This new regulation implements the provisions of Section 3 of Substitute for HB 2689, allowing retail licensees to serve free samples of alcoholic liquor on the licensed premises and at adjacent premises monitored and regulated by the division of ABC. The regulation establishes procedures for conduct of the event, record keeping, and storage of liquor.

II. Reason or reasons the proposed regulation is required, including whether or not the regulation is mandated by federal law.

Substitute for HB 2689 created a new section which authorizes a retailer to serve free samples of alcoholic liquor on the licensed premises and at adjacent premises monitored and regulated by the division of ABC. It also allows suppliers to participate in any tasting event conducted by a retailer.

Regulations are necessary to implement that section and regulate the serving of free samples.

This regulation is not mandated by federal law.

III. Anticipated economic impact upon the Kansas Department of Revenue.

None.

IV. Anticipated economic impact upon other government agencies and upon private business or individuals.

This regulation creates no economic impact on other government agencies. Licensees may see an increase in sales of alcoholic liquor through the sampling program.

V. Description of any less costly or less intrusive methods that were considered by the Department of Revenue for achieving the state purpose of the regulation and the reason that those methods were rejected in favor of the proposed regulation.

None.

ECONOMIC IMPACT STATEMENT

K.A.R. 14-13-17

I. Summary of proposed regulation.

This new regulation implements the provisions of Section 3 of Substitute for HB 2689, allowing suppliers to participate in tasting events conducted by a retail liquor store licensee on the licensed premises and at adjacent premises monitored and regulated by the division of ABC. The regulation establishes procedures for a supplier's conduct of the event, record keeping, and storage of liquor.

II. Reason or reasons the proposed regulation is required, including whether or not the regulation is mandated by federal law.

Substitute for HB 2689 created a new section which authorizes a retailer to serve free samples of alcoholic liquor on the licensed premises and at adjacent premises monitored and regulated by the division of ABC. It also allows suppliers to participate in any tasting event conducted by a retailer.

Regulations are necessary to implement that section and regulate the serving of free samples.

This regulation is not mandated by federal law.

III. Anticipated economic impact upon the Kansas Department of Revenue.

None.

IV. Anticipated economic impact upon other government agencies and upon private business or individuals.

This regulation creates no economic impact on other government agencies. Licensees may see an increase in sales of alcoholic liquor through the sampling program.

V. Description of any less costly or less intrusive methods that were considered by the Department of Revenue for achieving the state purpose of the regulation and the reason that those methods were rejected in favor of the proposed regulation.

None.

ECONOMIC IMPACT STATEMENT

K.A.R. 14-13-18

I. Summary of proposed regulation.

This new regulation requires a retailer to notify ABC at least 20 days prior to a transfer of ownership in a business entity holding a license. The notice must include all information necessary to determine the continued eligibility of the licensee.

II. Reason or reasons the proposed regulation is required, including whether or not the regulation is mandated by federal law.

The Liquor Control Acts prohibits the issuance of a retailer's license to certain persons and business entities. The act further requires the revocation of a license of a retailer who is no longer eligible to hold the license.

When a business entity holding a retailer's license changes ownership, the new owners must meet all licensing requirements or the licensee becomes ineligible to hold the license. Disclosure of the new owner(s) before the actual change of ownership occurs gives ABC time to review the qualifications of the new owners and the licensee a chance to remedy situations in which a new owner might be ineligible, avoiding revocation of the license.

This regulation is not mandated by federal law.

III. Anticipated economic impact upon the Kansas Department of Revenue.

None.

IV. Anticipated economic impact upon other government agencies and upon private business or individuals.

This regulation creates no economic impact on other government agencies. Licensees may see an increase in sales of alcoholic liquor through the sampling program.

V. Description of any less costly or less intrusive methods that were considered by the Department of Revenue for achieving the state purpose of the regulation and the reason that those methods were rejected in favor of the proposed regulation.

None.